

Introduced by Senator Wright

February 24, 2012

An act to add Chapter 4.7 (commencing with Section 19750) to Division 8 of the Business and Professions Code, and to amend Sections 336.9 and 337a of the Penal Code, relating to sports wagering.

LEGISLATIVE COUNSEL'S DIGEST

SB 1390, as introduced, Wright. Sports wagering.

The California Constitution prohibits various gaming activities within the state, including casino-style gaming, but authorizes the Governor, subject to ratification by the Legislature, to negotiate and conclude compacts for the operation of slot machines and the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. The California Constitution also authorizes the Legislature to provide for the regulation of horse racing, charitable bingo games, the California State Lottery, and charitable raffles.

Existing law prohibits a person, whether or not for gain, hire, or reward, from making a betting pool or placing a bet or wager on the result of any contest or event, including a sporting event, as specified.

The Gambling Control Act provides for the licensure of certain individuals and establishments that conduct controlled games, as defined, and for the regulation of these gambling activities by the California Gambling Control Commission. Existing law provides for the enforcement of those regulations by the Department of Justice. Any violation of these provisions is punishable as a misdemeanor, as specified.

The Horse Racing Law provides for the licensure of every person who participates in, or has anything to do with, the racing of horses,

and every employee of a parimutuel department by the California Horse Racing Board. The board is responsible for adopting rules and regulations for the protection of the public, the control of horse racing, and parimutuel wagering, as well as enforcing all laws, rules, and regulations dealing with horse racing and parimutuel wagering. The law permits the board to authorize an association licensed to conduct a racing meeting to also operate a satellite wagering facility at its racetrack inclosure, and for fairs to locate a satellite wagering facility at their fairgrounds, under specified conditions. Any violation of these provisions is punishable as a misdemeanor.

This bill would authorize the owner or operator of a gambling establishment, horse racing track, or satellite wagering facility, with a current license, to conduct wagering on professional and collegiate sports or athletic events by applying to its respective licensing authority for authorization to conduct sports wagering. The bill would require the commission and the board to adopt regulations to implement these provisions. The bill would require the Department of Justice to make investigations related to authorization of applicants and alleged violations of these provisions. Any violation of the provisions would be punishable as a crime. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4.7 (commencing with Section 19750)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 4.7. SPORTS WAGERING

6
7 19750. The following entities may conduct wagering on
8 professional and collegiate sports or athletic events as authorized
9 pursuant to this chapter:

1 (a) The owner or operator of a gambling establishment with a
2 current license issued by the California Gambling Control
3 Commission pursuant to Chapter 5 (commencing with Section
4 19800).

5 (b) The owner or operator of a horse racing track or satellite
6 wagering facility with a current license issued by the California
7 Horse Racing Board pursuant to Chapter 4 (commencing with
8 Section 19400).

9 19752. As used in this chapter, the following definitions shall
10 apply:

11 (a) "Board" means the California Horse Racing Board.

12 (b) "Commission" means the California Gambling Control
13 Commission.

14 (c) "Department" means the Department of Justice.

15 (d) "Licensed operator" means any of the entities listed in
16 Section 19750 that is authorized pursuant to this chapter to conduct
17 sports wagering.

18 (e) "Sports event" shall include any professional sports or
19 athletic event, and any collegiate sports or athletic event.

20 (f) "Sports wagering" or "sports pool" means the business of
21 accepting wagers on a sports event by any legal system or method
22 of wagering other than the parimutuel method of wagering,
23 including, but not limited to, exchange wagering, parlays, over
24 and under, money line, and straight bets.

25 19754. (a) An owner or operator of a gambling establishment,
26 horse racing track, or satellite wagering facility seeking to conduct
27 sports wagering shall apply to its respective licensing agency, the
28 board or the commission, for authorization to conduct sports
29 wagering.

30 (b) The board or the commission, as the case may be, shall hear
31 and decide promptly, and in reasonable order, all applications to
32 conduct sports wagering from owners and operators of licensed
33 gambling establishments and licensed horse racing tracks and
34 satellite wagering facilities. Authorization to conduct sports
35 wagering shall not be unreasonably withheld for any applicant that
36 is in good standing and has a current license.

37 19756. (a) Application for authorization to conduct sports
38 wagering shall be made on forms furnished by the board and the
39 commission.

(b) The application for authorization to conduct sports wagering shall include all of the following:

(1) The name of the licensee.

(2) The name and location of the gambling establishment, horse racing track, or satellite wagering facility.

(3) The names of all persons directly or indirectly interested in the business and the nature of the interest.

(4) A description of the proposed sports wagering operation.

(5) Any other information and details the board or the commission may require in order to discharge its duty properly.

19758. (a) The board and the commission shall adopt regulations for the administration and enforcement of this chapter.

(b) The board and the commission shall consult with each other, and the department, in the adoption of regulations pursuant to this section, and may adopt joint regulations.

19760. The regulations adopted by the board and the commission shall do all of the following:

(a) Provide for the approval of wagering rules and equipment by the department to ensure fairness to the public and compliance with state law, including, but not limited to, all of the following:

(1) Acceptance of wagers on a series of sports events.

(2) Types of wagering tickets that may be used.

(3) The method of issuing tickets.

(b) Govern all of the following:

(1) The extension of credit.

(2) The cashing, deposit, and redemption of checks or other negotiable instruments.

(3) The amount of cash reserves to be maintained by licensed operators to cover winning wagers.

(4) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the department, the method of accounting to be used by licensed operators, and the types of records required to be maintained.

19762. (a) The sports wagering authorized pursuant to this chapter may be conducted only at the gambling establishment, horseracing track, or satellite facility of the licensed operator.

(b) The licensed operators of horse racing tracks, satellite wagering facilities, and gambling establishments may enter into an agreement to jointly conduct a sports wagering operation. Any

1 joint sports wagering operation authorized pursuant to this
2 subdivision shall be conducted only at a horse racing track.

3 19764. A licensed operator shall not accept a wager on a sports
4 events from any person who is not physically present at the facility
5 where the sports wagering is conducted.

6 19766. A licensed operator shall establish the odds it will pay
7 on wagers placed on sports events.

8 19768. (a) A licensed operator shall not conduct any sports
9 wagering in violation of any provision of this chapter, any
10 regulation adopted pursuant to this chapter, or any governing local
11 ordinance.

12 (b) Any person who willfully violates any provision of this
13 chapter is guilty of a misdemeanor.

14 19770. (a) The department shall have all of the following
15 responsibilities:

16 (1) To investigate any request to the board or the commission
17 for an authorization pursuant to this chapter. The department may
18 recommend the denial or the limitation, conditioning, or restriction
19 of any authorization.

20 (2) To monitor the conduct of all licensed operators and other
21 persons having a material involvement, directly or indirectly, with
22 a sports wagering operation.

23 (3) To investigate suspected violations of this chapter.

24 (4) To investigate complaints that are lodged against licensed
25 operators, or other persons associated with a sports wagering
26 operation, by members of the public.

27 (5) To initiate, where appropriate, disciplinary actions. In
28 connection with any disciplinary action, the department may seek
29 restriction, limitation, suspension, or revocation of any license,
30 permit, authorization, or approval pursuant to this chapter, Chapter
31 4 (commencing with Section 19400), or Chapter 5 (commencing
32 with Section 19800), or the imposition of any fine upon any person
33 licensed, permitted, authorized, or approved pursuant to those
34 chapters.

35 (6) To adopt regulations reasonably related to its functions and
36 duties as specified in this chapter.

37 (b) The department has all powers necessary and proper to
38 enable it to carry out fully and effectually its duties and
39 responsibilities specified in this chapter.

1 19772. (a) The department shall make appropriate
2 investigations as follows:

3 (1) To determine whether there has been any violation of this
4 chapter or any regulations adopted under this chapter.

5 (2) To determine any facts, conditions, practices, or matters that
6 it may deem necessary or proper to aid in the enforcement of this
7 chapter or any regulation adopted under this chapter.

8 (3) To aid in adopting regulations.

9 (b) If, after any investigation, the department is satisfied that a
10 license, permit, authorization, or approval pursuant to this chapter,
11 Chapter 4 (commencing with Section 19400), or Chapter 5
12 (commencing with Section 19800) should be suspended or revoked,
13 it shall file an accusation with administrative hearings the board
14 or commission in accordance with Chapter 5 (commencing with
15 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
16 Code.

17 (c) In addition to any action that the board or commission may
18 take against a license, permit, finding of suitability, or approval,
19 the board or commission may also require the payment of fines or
20 penalties. However, no fine imposed shall exceed twenty thousand
21 dollars (\$20,000) for each separate violation of any provision of
22 this chapter or any regulation adopted under this chapter.

23 SEC. 2. Section 336.9 of the Penal Code is amended to read:

24 336.9. (a) Notwithstanding Section 337a, and except as
25 provided in subdivision (b), any person who, not for gain, hire, or
26 reward other than that at stake under conditions available to every
27 participant, knowingly participates in any of the ways specified in
28 paragraph (2), (3), (4), (5), or (6) of subdivision (a) of Section
29 337a in any bet, bets, wager, wagers, or betting pool or pools made
30 between the person and any other person or group of persons who
31 are not acting for gain, hire, or reward, other than that at stake
32 under conditions available to every participant, upon the result of
33 any lawful trial, or purported trial, or contest, or purported contest,
34 of skill, speed, or power of endurance of person or animal, or
35 between persons, animals, or mechanical apparatus, is guilty of
36 an infraction, punishable by a fine not to exceed two hundred fifty
37 dollars (\$250).

38 (b) Subdivision (a) does not apply to ~~either~~ any of the following
39 situations:

1 (1) Any bet, bets, wager, wagers, or betting pool or pools made
2 online.

3 (2) Betting pools with more than two thousand five hundred
4 dollars (\$2,500) at stake.

5 (3) *Any sports wagering authorized pursuant to Chapter 4.7*
6 *(commencing with Section 19750) of Division 8 of the Business*
7 *and Professions Code.*

8 SEC. 3. Section 337a of the Penal Code is amended to read:

9 337a. (a) Except as provided in Section 336.9 *and as*
10 *authorized pursuant to Chapter 4.7 (commencing with Section*
11 *19750) of Division 8 of the Business and Professions Code*, every
12 person who engages in one of the following offenses, shall be
13 punished for a first offense by imprisonment in a county jail for a
14 period of not more than one year or in the state prison, or by a fine
15 not to exceed five thousand dollars (\$5,000), or by both
16 imprisonment and fine:

17 (1) Pool selling or bookmaking, with or without writing, at any
18 time or place.

19 (2) Whether for gain, hire, reward, or gratuitously, or otherwise,
20 keeps or occupies, for any period of time whatsoever, any room,
21 shed, tenement, tent, booth, building, float, vessel, place, stand or
22 enclosure, of any kind, or any part thereof, with a book or books,
23 paper or papers, apparatus, device or paraphernalia, for the purpose
24 of recording or registering any bet or bets, any purported bet or
25 bets, wager or wagers, any purported wager or wagers, selling
26 pools, or purported pools, upon the result, or purported result, of
27 any trial, purported trial, contest, or purported contest, of skill,
28 speed or power of endurance of person or animal, or between
29 persons, animals, or mechanical apparatus, or upon the result, or
30 purported result, of any lot, chance, casualty, unknown or
31 contingent event whatsoever.

32 (3) Whether for gain, hire, reward, or gratuitously, or otherwise,
33 receives, holds, or forwards, or purports or pretends to receive,
34 hold, or forward, in any manner whatsoever, any money, thing or
35 consideration of value, or the equivalent or memorandum thereof,
36 staked, pledged, bet or wagered, or to be staked, pledged, bet or
37 wagered, or offered for the purpose of being staked, pledged, bet
38 or wagered, upon the result, or purported result, of any trial, or
39 purported trial, or contest, or purported contest, of skill, speed or
40 power of endurance of person or animal, or between persons,

1 animals, or mechanical apparatus, or upon the result, or purported
2 result, of any lot, chance, casualty, unknown or contingent event
3 whatsoever.

4 (4) Whether for gain, hire, reward, or gratuitously, or otherwise,
5 at any time or place, records, or registers any bet or bets, wager
6 or wagers, upon the result, or purported result, of any trial, or
7 purported trial, or contest, or purported contest, of skill, speed or
8 power of endurance of person or animal, or between persons,
9 animals, or mechanical apparatus, or upon the result, or purported
10 result, of any lot, chance, casualty, unknown or contingent event
11 whatsoever.

12 (5) Being the owner, lessee or occupant of any room, shed,
13 tenement, tent, booth, building, float, vessel, place, stand, enclosure
14 or grounds, or any part thereof, whether for gain, hire, reward, or
15 gratuitously, or otherwise, permits that space to be used or occupied
16 for any purpose, or in any manner prohibited by paragraph (1),
17 (2), (3), or (4).

18 (6) Lays, makes, offers or accepts any bet or bets, or wager or
19 wagers, upon the result, or purported result, of any trial, or
20 purported trial, or contest, or purported contest, of skill, speed or
21 power of endurance of person or animal, or between persons,
22 animals, or mechanical apparatus.

23 (b) In any accusatory pleading charging a violation of this
24 section, if the defendant has been once previously convicted of a
25 violation of any subdivision of this section, the previous conviction
26 shall be charged in the accusatory pleading, and, if the previous
27 conviction is found to be true by the jury, upon a jury trial, or by
28 the court, upon a court trial, or is admitted by the defendant, the
29 defendant shall, if he or she is not imprisoned in the state prison,
30 be imprisoned in the county jail for a period of not more than one
31 year and pay a fine of not less than one thousand dollars (\$1,000)
32 and not to exceed ten thousand dollars (\$10,000). Nothing in this
33 paragraph shall prohibit a court from placing a person subject to
34 this subdivision on probation. However, that person shall be
35 required to pay a fine of not less than one thousand dollars (\$1,000)
36 nor more than ten thousand dollars (\$10,000) or be imprisoned in
37 the county jail for a period of not more than one year, as a condition
38 thereof. In no event does the court have the power to absolve a
39 person convicted pursuant to this subdivision from either being

1 imprisoned or from paying a fine of not less than one thousand
2 dollars (\$1,000) and not more than ten thousand dollars (\$10,000).

3 (c) In any accusatory pleading charging a violation of this
4 section, if the defendant has been previously convicted two or
5 more times of a violation of any subdivision of this section, each
6 previous conviction shall be charged in the accusatory pleadings.
7 If two or more of the previous convictions are found to be true by
8 the jury, upon a jury trial, or by the court, upon a court trial, or are
9 admitted by the defendant, the defendant shall, if he or she is not
10 imprisoned in the state prison, be imprisoned in the county jail for
11 a period of not more than one year or pay a fine of not less than
12 one thousand dollars (\$1,000) nor more than fifteen thousand
13 dollars (\$15,000), or be punished by both imprisonment and fine.
14 Nothing in this paragraph shall prohibit a court from placing a
15 person subject to this subdivision on probation. However, that
16 person shall be required to pay a fine of not less than one thousand
17 dollars (\$1,000) nor more than fifteen thousand dollars (\$15,000),
18 or be imprisoned in the county jail for a period of not more than
19 one year as a condition thereof. In no event does the court have
20 the power to absolve a person convicted and subject to this
21 subdivision from either being imprisoned or from paying a fine of
22 not more than fifteen thousand dollars (\$15,000).

23 (d) Except where the existence of a previous conviction of any
24 subdivision of this section was not admitted or not found to be true
25 pursuant to this section, or the court finds that a prior conviction
26 was invalid, the court shall not strike or dismiss any prior
27 convictions alleged in the information or indictment.

28 (e) This section applies not only to persons who commit any of
29 the acts designated in paragraphs (1) to (6), inclusive, of
30 subdivision (a), as a business or occupation, but also applies to
31 every person who in a single instance engages in any one of the
32 acts specified in paragraphs (1) to (6), inclusive, of subdivision
33 (a).

34 SEC. 4. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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